

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BRUCE COLUMBUS KYLES,
Plaintiff,

v.

AARON BAKER, et al.,
Defendants.

Case No. 13-cv-04695-WHO

**ORDER REGARDING PLAINTIFF'S
NOTICE OF VOLUNTARY DISMISSAL
WITHOUT PREJUDICE OF
DEFENDANTS PITTSBURG POLICE
DEPARTMENT AND AARON BAKER**

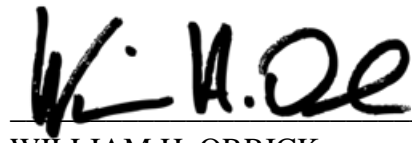
Re: Dkt. No. 43

On October 8, 2014, plaintiff Bruce Kyles filed a notice purporting to dismiss without prejudice defendants Pittsburg Police Department and Aaron Baker. Dkt. No. 43. But the Pittsburg Police Department and Baker have each filed an answer and have joined in a motion for summary judgment. *See* Dkt. Nos. 9, 18, 24. Where the opposing party has answered the complaint or moved for summary judgment, Rule 41(a) requires a plaintiff seeking voluntarily dismissal without prejudice to submit "a stipulation of dismissal signed by all parties who have appeared." Fed. R. Civ. P. 41(a). Accordingly, Kyles's notice of dismissal is not in compliance with Rule 41(a) and is of no effect.

If the parties are in agreement regarding the dismissals, they should file a stipulation to that effect prior to the hearing scheduled on October 22, 2014.

IT IS SO ORDERED.

Dated: October 9, 2014



WILLIAM H. ORRICK
United States District Judge